



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,593	04/02/2007	Yu-Ro Lee	1403-09 PCT US	9844
66547	7590	02/18/2010	EXAMINER	
THE FARRELL LAW FIRM, LLP 290 Broadhollow Road Suite 210E Melville, NY 11747			NGUYEN, LEON VIET Q	
			ART UNIT	PAPER NUMBER
			2611	
			MAIL DATE	DELIVERY MODE
			02/18/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/583,593

Applicant(s)

LEE ET AL.

Examiner

LEON-VIET Q. NGUYEN

Art Unit

2611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 February 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 20-23.
Claim(s) objected to: 5,6,8 and 9.
Claim(s) rejected: 1-3,7,10-13 and 15-19.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/David C. Payne/
Supervisory Patent Examiner, Art Unit 2611

Regarding claim 1, applicant asserts that Hadad does not disclose the RS code being allocated to a corresponding base station based on a number of the subcarrier groups, a basic RS code, a group number, and a cell number (Remarks page 10 fourth paragraph).

Examiner respectfully disagrees.

Hdad teaches a subcarrier allocation method using RS codes, with different base stations having different RS codes (§10108). The subcarrier allocation method comprises dividing subcarriers into carrier groups (§10091), assigning group numbers to each user (§10093-§10095), receiving an RS code pertaining to the groups (§10097), and assigning each user a different code (§10060), which is interpreted to be a cell number.

Also regarding claim 1, applicant asserts that Simmonds does not disclose partitioning subcarrier groups and symbols from the uplink channels based on a basic pilot patten generated by a specific reference (Remarks page 11 fourth paragraph).

Examiner respectfully disagrees.

Simmonds teaches allocating subcarriers as pilot channels (col. 4 lines 46-48). The pilot channels are interpreted to be groups. The group allocation is based on pilot allocation information (col. 4 lines 47-49), where the pilot allocation information is determined using channel characteristics (col. 4 lines 37-40). The pilot allocation information is interpreted to be a basic pilot pattern and the channel characteristics are interpreted to be specific references.

Further regarding claim 1, applicant asserts that neither Hadad or Simmonds teaches differently allocating the pilot per subcarrier group based on the basic pilot pattern from the hopped data (Remarks page 12 first paragraph).

Examiner respectfully disagrees.

Hadad teaches allocating different codes corresponding to each of the groups for different base stations (§10112). It would be obvious that each group of subcarriers include a pilot sequence from the hopped data (§10032). It is well known in the art that OFDM communications (§10077) utilize a pilot or preamble sequence.